

Returning Manyeleti Game Reserve to its rightful owners: land restitution in protected areas in Mpumalanga, South Africa

M.A.I. de Koning

In a new process for settling land claims in protected areas, government and community land claimants negotiate a mutually acceptable co-management agreement aimed at balancing conservation and development benefits.

Between 1913 and the early 1980s, forced removals in support of racial segregation caused enormous suffering and hardship in South Africa. The South African Government is now committed to reversing the effects of colonialism and apartheid. The Restitution of Land Rights Act (No. 22 of 1994 as amended) provides for the return of land rights to persons or communities dispossessed after 19 June 1913 without equitable compensation as a result of past racial discriminatory laws or practices. Claims had to be lodged with the Commission on Restitution of Land Rights (CRLR) before 31 December 1998. In total 80 000 land claims were filed from all over South Africa.

Land claims affect many of South Africa's protected areas, State forests and world heritage sites. An estimated 122 land claims on protected areas are outstanding (CRLR, 2007). The appropriate settlement of these claims can have enormous impact on the local economic development of rural areas, where most people still rely heavily on natural resources to keep poverty at bay (Shackleton and Shackleton, 2004). The land restitution process in protected areas will be successful only if a good balance between conservation and development is achieved (de Koning and Marais, 2009).

This article summarizes the results of the negotiation process between government and land claimants over the first land claims on protected areas in the province of Mpumalanga. On 27 February 2010, land claim settlement and co-management agreements were signed for Mdala, Mabusa and Mkhombo Dam

Nature Reserves and Manyeleti Game Reserve. The results for Manyeleti Game Reserve are presented in more detail.

LAND RESTITUTION AND CO-MANAGEMENT IN PROTECTED AREAS

Beyond rectification of a historical wrong, clear objectives, such as poverty alleviation and employment generation, are important prior to the settlement of a land claim. In South Africa's land restitution process it is the responsibility of the State and the claimants (individuals, families and communities) to make an informed decision among the options of alternative land, land restitution, financial compensation and/or a combination of these. In most cases the government promotes land restitution as the preferred settlement option for land claimants.

To align the land restitution process in protected areas, the responsible ministers of the Department of Land Affairs (DLA) and the Department of Environmental Affairs and Tourism (DEAT) signed a memorandum of agreement (MoA) in May 2007. For areas that must remain protected in perpetuity, the MoA presents co-management as the only strategy when communities opt for land restitution.

The viability of co-management depends partly on whether the protected area can make a net profit. In most cases this is only possible if management is effective and efficient, the potential for tourism development is high and the right investor can be found. Berkes (1997) concluded that co-management is feasible only if four conditions are present: appropriate institutions, trust

Mirjam A.I. de Koning is Co-management and Community Based Natural Resource Management (CBNRM) Advisor, Mpumalanga Tourism and Parks Agency, Nelspruit, South Africa.

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Tourism value	High (co-management)	Medium (further assessment)	Low (no co-management)
Biodiversity value			
High	<p>Co-management Use socio-economic risk value and current tourism status to identify risk areas</p>	<p>Co-management Socio-economic risk ↓ Current tourism ↑</p> <p>Part-lease/part co-management Socio-economic risk ↑ Current tourism ↑ Socio-economic risk ↓ Current tourism ↓</p> <p>Lease/Alternative land/ Financial compensation Socio-economic risk ↑ Current tourism ↓</p>	<p>Lease Alternative land Financial compensation</p>
Medium	<p>Co-management Use socio-economic risk value and current tourism status to identify risk areas</p>	<p>Co-management Socio-economic risk ↓ Current tourism ↑</p> <p>Part-lease/part co-management Socio-economic risk ↑ Current tourism ↑ Socio-economic risk ↓ Current tourism ↓</p> <p>Lease/Alternative land/ Financial compensation Socio-economic risk ↑ Current tourism ↓</p>	<p>Lease Alternative land Financial compensation</p>
Low	<p>Co-management Use socio-economic risk value and current tourism status to identify risk areas</p>	<p>Co-management Socio-economic risk ↓ Current tourism ↑</p> <p>Deproclamation Socio-economic risk ↑ Current tourism ↓</p>	<p>Deproclamation</p>

Matrix to determine the most feasible land claim settlement option by ranking the value of biodiversity and tourism, taking into account the current tourism record and the socio-economic risk

between partners, legal protection of local rights and economic incentives for local people. Partnerships with the private sector are crucial to make co-management beneficial for all the parties involved. The anticipated benefits for the communities include community equity stakes in tourism concessions; payments of lease fees or revenue shares to communities for the use of their land; preferential employment for local people; local outsourcing, procurement and contracting; and local enterprise opportunities and business training (Wolmer and Ashley, 2003; Carruthers, 2007).

THE MPUMALANGA MODEL

The Mpumalanga Tourism and Parks Agency (MTPA) is a parastatal appointed by the State to manage the provincial protected areas. Of 19 fenced and staffed State-owned protected areas managed by MTPA, 17 are partially or completely under land claim.

Protected areas are decreasingly subsidized by the government, and conservation agencies rely increasingly on their own income generation to sustain operations and to fulfil their mandate of conserving biodiversity. However, it is questionable whether they can manage to do so with the additional expectations of benefit sharing by land claimants. In 2008/2009, MTPA relied on government subsidies for 88 percent of its income, but its long-term target is to rely on these subsidies for only 60 percent of its income in 2016/2017.

From 2007 to 2009, MTPA developed a model for balancing the objectives of biodiversity conservation and increased local economic development in cases of land restitution in protected areas. The model was designed via an extensive literature review and legislative analysis.

The first part of the model is the elaboration of the conservation agency’s internal position regarding the land claim. The

agency carries out a ranking exercise on the biodiversity and tourism value of the area to assess the preferred land claim settlement option. Areas with medium to low tourism value are considered to have insufficient potential to yield benefits under co-management, as they attract limited numbers of investors and tourism operations generate only an average turnover. Furthermore, the negotiated contracts risk having few pro-poor tourism benefits because operations are risky and because of the lack of competition by investors. Therefore MTPA decided that co-management is only viable for the protected areas with a medium to high tourism value, regardless of their biodiversity value. For other areas, options include land restitution with MTPA leasing the land back from the claimants, alternative land, financial compensation or, where both tourism and biodiversity values are low, deproclamation of the protected area, permitting a change in land use (see Figure).

In the first part of the model, the conservation agency also establishes its internal position with regard to the preferred set-up of co-management.

The second part of the model design is the development of a consolidated position among relevant government departments, based on the conservation agency's internal position.

The third part is the elaboration of generic land claim settlement and co-management agreement frameworks, based on the consolidated government position. The agreement frameworks refer to the respective legislation involved, and they must be legally compliant. The final versions need to be approved by the relevant departments to form the basis for negotiations between the government stakeholders and the land claimant representative structures.

The model design was tested in seven protected areas managed by MTPA, selected for their relatively high biodiversity and high tourism value and therefore considered to have potential for successful co-management.

Negotiation process

The negotiation of land claim settlements and co-management agreements between the conservation agency and land claimant representatives is facilitated by methods such as ranking of primary and secondary stakeholders, participatory mapping with communities, exposure visits, role-playing and socio-economic assessments. Ideally these activities are all conducted within a team consisting of land claimants, MTPA staff and officials of the Regional Land Claims Commission. The process enables the land claimant representatives to make informed choices within the legal framework. It makes it possible to tailor the land claim settlement option and agreements to specific situations and to win the acceptance of a majority of claimants regarding the proposed agreements and way forward.

In certain cases the land claimant rep-

resentatives need additional information to decide which land claim settlement option is preferred for a given protected area, such as the current tourism record; a socio-economic risk assessment of the environment in which the protected area is located; and financial figures to make projections on current and future net profit calculations. The matrix shown in the Figure is a comprehensive tool that can help land claimant representatives understand the logic determining the most feasible land claim settlement option for their specific situation.

The inclusion of inputs from the land claimant representatives has made it possible to make some generic improvements to the agreement frameworks. For example, the co-management committee is given real decision-making power as long as decisions fall within the approved management plan for the protected area (which is made by MTPA in conjunction with the land claimants and approved by the Mpumalanga Department of Economic Development, Environment and Tourism). Socio-economic assessment

proved to be a good tool for easily identifying certain risk areas such as unrealistic community expectations; a lack of strong community structures; lack of access to infrastructure, services and support organizations; claimants living relatively far from the reserve; and conflict with the local municipality. Although the process was costly and lengthy for the conservation agency, it ensured improved communication, understanding and trust between the future co-management partners, that is, the land claimants and the conservation agency.

THE CASE OF MANYELETI GAME RESERVE

One of the protected areas where MTPA applied the model described above is the Manyeleti Game Reserve. This 22 750 ha game reserve, situated along the western boundary of the Kruger National Park, has been claimed by 253 claimant households of the Mnisi community who are represented by the Manyeleti Conservation Trust. The Mnisi community, a branch of the wider Shangaan, settled on

Negotiation of the land claim settlement and co-management agreement between the government and the claimants in Manyeleti Game Reserve



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unoccupied land at Manyeleti (meaning “place of the stars”) in 1922 and used it for grazing and subsistence farming. They brought three young mahogany trees with them and planted them where the game reserve is today.

In 1964 the apartheid government removed the Mnisi people from their land without their consent and without compensation, and developed the land as a game reserve for black people, who were barred from the neighbouring Kruger National Park.

The reserve is a prime game-viewing destination, owing to unhindered migration of the “big five” – African elephant (*Loxodonta africana*), black rhinoceros (*Diceros bicornis*), Cape buffalo (*Syncerus caffer*), leopard (*Panthera pardus*) and lion (*Panthera leo*) – and other species of wildlife between Manyeleti, Timbavati and Sabie Sands Game Reserves and Kruger National Park. The vegetation is generally open savannah and mixed lowveld bushveld with dense riverine vegetation and forests following the watercourses. Tourism is already well established, with nine tourist concessions currently operating in the reserve, and it has potential for expansion. The reserve’s high tourism value and medium biodiversity value suggested that co-management could be a viable option, and in the negotiation process the land claimants decided to opt for land restitution with co-management.

Possible risk areas identified in the socio-economic assessment include a relatively high number of neighbouring communities having expectations for jobs and the lack of access to services. Advantages include the good relationship between the claimants and the tribal authority; the good relationship with the local municipality; strong leadership and community structures in the area; community cohesion; and the relatively low expectations of the claimant community. The socio-economic assessment confirmed that co-management could be a feasible model as long as the expectations of the wider

community are managed; MTPA and the Manyeleti Conservation Trust can address this risk area through a public participation process about the management plan, including its financial projections.

On 24 February 2010, the majority of the claimant households resolved to mandate the current board of trustees of the Manyeleti Conservation Trust to sign the agreements on their behalf; one of the conditions was that the existing trust be augmented by four claimant members. The land claim settlement and co-management agreements were signed simultaneously in an official ceremony on 27 February 2010.

The signed agreements stipulate that the land in Manyeleti Game Reserve will be restored to the claimants and the area managed in accordance with the finalized co-management agreement and the management plan for the game reserve. The current landowner (in most cases the Department of Land Affairs and/or the National or Provincial Depart-

ment of Public Works) will transfer the title deed to the Manyeleti Conservation Trust within one year after the signing of the agreements. In the case of a dispute, the 253 claimant households can replace the current board of trustees or opt for a new legal entity representing their interests. Certain conditions of use will be registered against the title deeds to be transferred, such as the obligation that the properties must remain under conservation and cannot be physically occupied by the new landowners.

MTPA and the Manyeleti Conservation Trust jointly establish the management plan and a co-management committee for the overall strategic management of the game reserve consisting of three representatives each. Day-to-day operational management remains the responsibility of MTPA. The State agreed to provide planning and development grants of up to US\$880 per claimant household and 25 percent of the value of the land, to enable the claimants to undertake business

Community resolution in Manyeleti Game Reserve: the majority of the claimant households give their consent to the board of trustees of the Manyeleti Conservation Trust to sign agreements on their behalf



developments (such as the development of a community-owned lodge) and/or to obtain equity in tourism concessions on the game reserve. Existing and future community public-private partnership contracts should be negotiated within the co-management committee, for maximization of pro-poor tourism benefits and the best interests of the protected area.

Neighbouring communities should benefit from the game reserve according to the National Environmental Management Protected Areas Act (No. 57 of 2003). It was decided that the communities most closely associated with the reserve and neighbouring communities within a radius of 5 km should benefit from access, resource use and employment opportunities according to an agreed ratio. It was recognized that excluding neighbouring communities, mainly of Shangaan and Pedi people, could cause conflict and instability in the area, as many of these communities rely on the reserve for their subsistence.

Benefits package for rightful landowners of Manyeleti Game Reserve

The following benefits accrue to the new landowners.

- **Infrastructure and assets.** The new landowners are granted ownership of all immovable infrastructure and fixed assets.
- **Sharing of revenue.** Landowners receive 100 percent of the net profit made by the game reserve as the entire area is claimed. The net profit is calculated by deducting all costs related to the management of the game reserve from its annual revenue (including the State subsidies).
- **Ecotourism and other developments.** Existing tourism concessions will be reviewed to maximize pro-poor development benefits and to ensure the overall sustainability of the game reserve. The nature and extent of new developments will be determined by the co-management committee. All lease/concession fees are included in the net profit calculation.
- **Equity in tourism concessions.** Equity is to be obtained via development grants and negotiations with the private sector around existing and future community public-private partnerships.
- **Tourism levy.** A levy to all visitors to the game reserve will be charged for the benefit of the landowners.
- **Use of biological resources.** The landowners and other resource users are allowed to use biological resources in limited quantities during certain periods, as determined by the co-management committee in accordance with the management plan.
- **Access to the game reserve.** The co-management committee can authorize access to sacred burial sites, the use of biological resources and a reduced gate entrance fee over certain periods.
- **Proceeds from game.** Proceeds generated from the sale of game and hunting are included in the net profit calculation.
- **Local management capacity.** Landowners and neighbouring communities have an exclusive opportunity, in a proportion of 60:40 percent, to be employed in unskilled positions in MTPA job vacancies on the game reserve. Landowners and neighbouring communities will be granted preference in procurement of goods and services, subject to their levels of skill. Ecotourism management and biodiversity conservation skills will be transferred through bursaries (scholarships) and learnerships (training programmes combining theory at a college or training centre with on-the-job practice) so that over time the landowners will also qualify for skilled positions.

CONCLUSIONS

Although it is too early to say how well the co-management arrangement will work, the negotiation process adopted in Mpumalanga shows clearly that a consolidated government position, agreed upon by all relevant government stakeholders, can help to keep the land restitution process in protected areas within the legal framework. The model developed by MTPA may assist other government agencies, especially State-subsidized conservation agencies in South Africa, to manage land restitution in protected areas within their financial and staffing constraints.

It is recommended that government support all the options indicated in the Figure, which is not the case at present. Most alternatives to co-management are currently still unclear and/or not feasible. The lease option appears to be difficult in the protected areas that are currently State-owned, because the State is not bought out when the land is returned, as is the case in private nature reserves. Because State subsidies for protected areas are declining rather than increasing, there is a limited chance that the government will approve payment of lease fees. Unfortunately, it is still difficult for the conservation agency to convince the Regional Land Claims Commission that despite the political drive for restoration of land title, it is not always the most suitable option for land restitution in protected areas, and that in certain cases the options of alternative land and/or financial compensation should be pursued. This is especially true for areas of irreplaceable biodiversity with limited development potential that are important for the public and cannot be compromised. In these cases co-management can provide only limited tangible benefits for the land claimants because no net profit is generated.

The methods that were developed to work out the generic agreement frameworks helped the land claimants make informed choices within the legal

framework and tailor the settlement options and agreements to their specific situations. Where the feasibility of the chosen land claim settlement option is doubtful, there should be flexibility to review the agreements after a certain period, and the possibility of other, more feasible alternatives.◆



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